IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2271 OF 2004

Baban Maruti Parchande & Ors. ...Petitioners
Vs.
State of Maharashtra & Ors. ...Respondents

Mr.R.K.Mendadkar for Petitioners
Mr.C.R.Sonawane, A.G.P. for Respondent Nos.1,7 & 8
Mrs. Meena Doshi for Respondent Nos.3 to 6

CORAM: H.L.GOKHALE &
SMT.R.S.DALVI,JJ.
DATED: 30TH JUNE, 2005

P.C.

1. Heard Mr. Mendadkar in support of this Petition. Mr. Sonawane, A.G.P. appears for Respondent Nos.1,7 and 8. Mrs. Meena Doshi appears for Respondent Nos.3 to 6.

2. At the outset Mr. Mendadkar states that although this Petition is filed on behalf of twelve persons, he is restricting it only to ten of them and seeks to drop Petitioner Nos.6 and 12. The Petition is not being pressed on behalf of Petitioner Nos.6 and 12.

3. The ten Petitioners are teachers working in the Schools run by the Respondent No.3 Institution. The Schools are mentioned at Serial Nos.4 to 6. They joined in the service of Respondent No.3 Institution on various dates as per the chart annexed at

Exhibit-Y-1 to the Petition, which shows that they joined from 8th June, 1980 to 29th July, 1991. They all claim to belong to Mahadev Koli Community which is a Scheduled Tribes Community. On that footing they were joined and now they are called upon to get their claims scrutinised. It is submitted on their behalf that although they claim to belong to this Community in as much as they have joined the service of Respondent No.3 Institution prior to 15th June, 1995, on any case they should be protected under the G.R. dated 15th June, 1995 which protects the services of persons belonging to such Communities, if they establish that in any case they belong to some of the specified communities such as Koli, Bhandari etc. The Competent Authority is empowered to give them certificates as belonging to special backward class.

4. Mr. Mendadkar has stated on instructions that these ten Petitioners would like to approach the Competent Authority for issuance of the Special Backward Class Certificate. He states that the Authority will be approached within two weeks hereafter. The Authority is expected to examine the claim and if so satisfied to issue the Special Backwardclass Certificate which is normally issued within four weeks from the date of application. Similarly if satisfied, the same will be issued within four weeks. The Petitioners will forward that Certificate to the concerned Scrutiny Committee to get

it scrutinised. We expect Scrutiny Committee to scrutinise it within three months after receiving the application for scrutiny.

5. On receiving a Special Backward Class Certificate or a rejection letter/and/or the Petitioners will forward it to the Respondent No.3 Institution even during the pendency of the scrutiny, so that the Institution knows that such a certificate has been issued or not, to the concerned Petitioners. If the Certificate is not so issued the consequences will follow. Similarly later on if on scrutiny the Certificate is found to be invalid then also the consequences will follow. Mrs.Doshi appearing for the Respondent No.3 Management points out that the Management has followed the law in this behalf. It employed all these persons from time to time right from 1980 and has filled the posts of Scheduled Tribes by employing these persons. Now in view of the Government Resolution the Petitioners are seeking a protection. It is submitted that if Petitioners get any such protection that will have an effect on the roaster maintained by the Management because now the Management will have to show these persons as belonging to the special backward class and not Scheduled Tribes. In view of this submission of Mrs.Doshi we clarify that in view of the fact that the Management had followed the roaster while appointing these persons as belonging to Scheduled Tribes, the

Respondent No.3 Institution will not be faulted on this ground by the Government or its authorities. This change in the situation is not of the making of the Respondent No.3 Institution and therefore it will not be criticised or prosecuted for not engaging Scheduled Tribe persons to adequate number.

6. The Petitioners have filed an undertaking that they are seeking this benefit under the G.R. of 15th June, 2005 Mr. Mendadkar has accepted that the Petitioners are not claiming the benefit under the G.R. of 30th June, 2004 as of now. It is also stated in paragraph three that neither the ten Petitioners nor their family members will claim benefit as belonging to Scheduled Tribes hence forth. We accept this undertaking.

. The Petition stand disposed of.

(H.L.GOKHALE,J.)

(SMT.R.S.DALVI,J.)